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Labour Services (Amendment) Act 2009



Number 38 of 2009

LABOUR SERVICES (AMENDMENT) ACT 2009

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Acts Referred to

Companies Act 1990	1990, No. 33
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Courts Act 1981	1981, No. 11
Ethics in Public Office Act 1995	1995, No. 22
Labour Services Act 1987	1987, No. 15
Labour Services Acts 1987 and 1999	
Redundancy Payments Act 1967	1967, No. 21
Safety, Health and Welfare at Work Act 2005	2005, No. 10

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Number 38 of 2009

LABOUR SERVICES (AMENDMENT) ACT 2009

AN ACT TO AMEND THE LABOUR SERVICES ACT 1987; AND TO PROVIDE FOR
MATTERS CONNECTED THEREWITH.

[9th December, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definition.

1.— In this Act “Principal Act” means the [Labour Services Act 1987](#) .

Amendment of section 1
of Principal Act.

2.— Section 1 of the Principal Act is amended by the insertion, in subsection (1), of the following definitions:

“ ‘Act of 1995’ means the [Ethics in Public Office Act 1995](#) ;

‘material interest’ shall be construed in accordance with section 2(3) of the Act of 1995;

‘serious wrongdoing’ includes breach of duty by a member or member of staff of An Foras, or a consultant, adviser or other person, in relation to An Foras.”.

Amendment of section 6
of Principal Act.

3.— Section 6 of the Principal Act is amended by the insertion of the following subsections:

“(6) The Director General shall hold office for such period, not exceeding 5 years from the date of his appointment, as the Minister shall determine.

(7) Subject to subsection (8), where the Director General’s term of office expires by the effluxion of time he shall be eligible to be reappointed to that office.

(8) Where the Director General has served 2 terms of office (including a term of office commenced or completed before the commencement of [section 3](#) of the *Labour Services (Amendment) Act 2009*) he shall not be eligible to be reappointed to that office.

(9) The Director General shall, *ex officio*, be a member of An Foras.”.

Accountability of Director
General of An Foras
Áiseanna Saothair to
Committee of Public
Accounts.

4.— The Principal Act is amended by the insertion of the following section:

“6A.— (1) The Director General shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (hereafter in this section referred to as the ‘Committee’), give evidence to that Committee on—

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that An Foras is required by this Act to prepare,
- (b) the economy and efficiency of An Foras in the use of its resources,
- (c) the systems, procedures and practices employed by An Foras for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting An Foras referred to in a special report of the Comptroller and Auditor General under [section 11](#) (2) of the [Comptroller and Auditor General \(Amendment\) Act 1993](#), or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in paragraph (a), (b) or (c)) that is laid before Dáil Éireann.

(2) In the performance of his duties under this section, the Director General shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.”.

Accountability of Director
General of An Foras
Áiseanna Saothair to other
committees of Houses of
Oireachtas.

5.— The Principal Act is amended by the insertion of the following section:

“6B.— (1) In this section ‘Committee’ means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee

referred to in section 6A (inserted by [section 4](#) of the *Labour Services (Amendment) Act 2009*) or the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann) or a subcommittee of such a Committee.

(2) Subject to subsection (3), the Director General shall, at the request in writing of a Committee, attend before it to give an account in respect of matters relating to the general administration of An Foras that fall within the terms of reference of the Committee.

(3) The Director General shall not be required to give an account before a Committee in respect of any matter that has been, or is or is likely to be, the subject of proceedings before a court or tribunal in the State.

(4) Where the Director General is of the opinion that a matter in respect of which he is requested to give an account before a Committee is a matter to which subsection (3) applies, he shall, as soon as may be after the making of the request, inform the Committee in writing of that opinion and the reasons for the opinion, unless the information is conveyed to the Committee at a time when the Director General is before it.

(5) Where the Director General has informed a Committee of his opinion in accordance with subsection (4) and the Committee wish to proceed with the request concerned, the Chairperson of the Committee may, on behalf of the Committee, apply to the High Court in a summary manner for a determination of the question whether the matter is one to which subsection (3) applies, and the High Court shall determine the matter.

(6) Where the Director General informs a Committee, in accordance with subsection (4), that he is of the opinion that a matter in respect of which he is requested to give an account before the Committee is a matter to which subsection (3) applies, then, subject to subsection (7), he shall not attend before the Committee to give an account in respect of the matter.

(7) If, upon an application under subsection (5), the High Court determines that the matter concerned is one to which subsection (3) applies, the Committee shall withdraw the request referred to in subsection (2), but if the High Court determines that subsection (3) does not apply, the Director General shall attend before the Committee to give an account in respect of the matter.”.

Disclosure of interests.

6.— The Principal Act is amended by the insertion of the following new sections:

“Disclosure by members of An Foras of certain interests.

9A.— (1) Where at a meeting of An Foras any of the following matters arises, namely—

(a) an arrangement to which An Foras is a party or a proposed such arrangement, or

(b) a contract or other agreement with An Foras or a proposed such contract or other agreement,

then, any member of An Foras present at the meeting who otherwise than in his capacity as such a member has a material interest in the matter shall—

(i) at the meeting, disclose to An Foras the fact of such interest and the nature thereof,

(ii) absent himself from the meeting or that part of the meeting during which the matter is being discussed,

(iii) take no part in any deliberation of An Foras relating to the matter, and

(iv) not vote on a decision relating to the matter.

(2) A member of An Foras who, otherwise than in his capacity as such a member has a material interest in—

(a) an arrangement or proposed arrangement to which paragraph (a) of subsection (1) applies, or

(b) a contract or other agreement or a proposed contract or other agreement to which paragraph (b) of that subsection applies,

shall neither influence nor seek to influence any decision to be made by An Foras in relation thereto.

(3) Where a material interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the member by whom the disclosure is made shall not be counted in the quorum for the meeting.

(4) Where at a meeting of An Foras a question arises as to whether or not a course of conduct, if pursued by a member of An Foras, would constitute a failure by him to comply with the requirements of subsection (1), the question may, subject to subsection (5), be determined by the chairman of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

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(5) Where at a meeting of An Foras, the chairman of the meeting is the member in respect of which a question to which subsection (4) applies falls to be determined, then the other members of An Foras attending the meeting shall choose one of their number to be chairman of the meeting for the purpose of determining the question concerned.